

# EXHIBIT 5

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI

RON TUSSEY, TIMOTHY HERNDON and  
TIMOTHY PINNELL as representatives of a  
class of similarly situated persons, and on  
behalf of the PRISM PLAN FOR  
EMPLOYEES OF ABB, INC. and CHARLES  
FISHER, as representative of a class of  
similarly situated persons, and on behalf of the  
PRISM PLAN FOR REPRESENTED  
EMPLOYEES OF ABB, INC.,

Plaintiffs,

v.

ABB, INC.; JOHN W. CUTLER, JR.;  
PENSION REVIEW COMMITTEE OF ABB,  
INC.; PENSION & THRIFT MANAGEMENT  
GROUP OF ABB, INC.; EMPLOYEE  
BENEFITS COMMITTEE OF ABB, INC.;  
FIDELITY MANAGEMENT TRUST  
COMPANY; and FIDELITY  
MANAGEMENT & RESEARCH  
COMPANY,

Defendants.

Case Number: 2:06-cv-04305 (NKL)

Judge Nanette K. Laughrey

*Expert Report of Robert Glenn Hubbard*

*December 23, 2008*

88. As I have explained in detail in published research, the mutual fund industry is competitive, and the fees charged by mutual funds are constrained by those forces to economically reasonable ranges.<sup>91</sup> As I explain below, even within this competitive range, Fidelity offers mutual funds with lower expense ratios than many funds with similar investment styles. Consequently, to the extent that plan sponsors and participants find value in having mutual funds in their DC plans, it is not surprising to see Fidelity funds having a share of that market.

89. For the purposes of this analysis, I limit my attention to mutual funds that are reported as being commonly used in DC plans, based on *Pensions and Investments* annual survey of Investment Management providers.<sup>92</sup> Merging the *Pensions and Investments* list of commonly-used mutual funds with expense ratio data from Strategic Insight's SimFund database allows one to construct a comparison of fees charged by Fidelity and non-Fidelity funds.<sup>93</sup> Exhibit 9 provides a comparison of domestic equity funds, domestic fixed income funds, balanced funds, international funds, and money market funds. With respect to the choices of funds and fees that are common in DC plans, the asset-weighted average expense ratio of the Fidelity funds is consistently below

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<sup>91</sup> Coates and Hubbard, 163-183.

<sup>92</sup> Survey instrument for *Pensions & Investments'* Survey of Mutual Funds Most Used by Defined Contribution Plans, 2008. For each type of five different asset types, managers were asked to list a certain number of their most popular funds in DC plans; the number of funds requested varied by type of fund. Those types and the number of funds requested for each, are as follows:

- Domestic Equity — 12 funds from each manager;
- Balanced Funds — five funds from each manager;
- International Funds — three funds from each manager;
- Domestic Fixed Income — ten funds from each manager; and
- Money Market — three funds from each manager.

<sup>93</sup> These expense ratios are net of waivers and reimbursements. In cases where the share class was not clearly identified and multiple classes exist, I selected the share class with the lowest expense ratio. By choosing the lowest expense ratio, I am being conservative.